

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sarah Hyde	Team: Team # 8	CCRB Case #: 200611436	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 08/28/2006 7:30 PM	Location of Incident: § 87(2)(b)	Precinct: 73	18 Mo. SOL 2/28/2008	EO SOL 2/28/2008	
Date/Time CV Reported Mon, 08/28/2006 10:04 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 08/28/2006 10:04 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Kaz Daughtry	28690	940052	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Steven Chimienti	00155	939999	073 PCT
2. POM Christophe Kirchoff	26603	941126	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kaz Daughtry	Abuse: Kaz Daughtry stopped § 87(2)(b)	§ 87(2)(b)
B.POM Kaz Daughtry	Force: PO Kaz Daughtry used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Kaz Daughtry	Abuse: PO Kaz Daughtry searched § 87(2)(b)	§ 87(2)(b)
D.POM Kaz Daughtry	Abuse: PO Kaz Daughtry searched the car in which § 87(2)(b) was an occupant.	§ 87(2)(b)

Synopsis

On August 28, 2006, at approximately 7:30 p.m., § 87(2)(b) and his wife, § 87(2)(b) were picking up their daughter from the babysitter's house at § 87(2)(b) in Brooklyn. They left their keys in the ignition of their car. When they returned to the car with their baby, PO Kaz Daughtry of the 73rd Precinct and PO Christophe Kirchoff of the same command were standing by it. PO Daughtry asked § 87(2)(b) and § 87(2)(b) if it was their car and they responded that it was. PO Daughtry asked for § 87(2)(b)'s ID (Allegation A). PO Daughtry pushed § 87(2)(b) against the car and handcuffed him (Allegation B). PO Daughtry went into § 87(2)(b)'s pocket and retrieved his wallet (Allegation C). PO Daughtry went into the driver's side of § 87(2)(b)'s car and pulled up the carpet (Allegation D). § 87(2)(g)

§ 87(2)(b) was not arrested but was issued a summons for § 87(2)(b).

§ 87(2)(b) alleged 400 dollars was missing from his wallet following the incident. That allegation was forwarded to IAB under Log # 06-28392.

This case was originally assigned to Investigator Otto; it was reassigned to the undersigned investigator after Inv. Otto resigned.

Summary of Complaint

On August 28, 2006, § 87(2)(b) called the CCRB and filed a complaint against a New York City police officer using the call processing system (encl.5a-5b). On September 25, 2006, § 87(2)(b) was interviewed at the CCRB (encl.6a-6c). § 87(2)(g)

§ 87(2)(b) is a § 87(2)(b)-old Indian male. He is 5'10" and weighs 180 pounds. He has black hair and brown eyes.

On August 28, 2006 at approximately 7:30 p.m., § 87(2)(b) and his wife, § 87(2)(b) drove to their babysitter's house at § 87(2)(b) in Brooklyn to pick up their baby. § 87(2)(b) parked the car directly across the street from the apartment building in a legal parking spot. § 87(2)(b) left the keys in the ignition, but the car was not running. § 87(2)(b) went into the building to get the baby. When § 87(2)(b) came back outside, § 87(2)(b) crossed the street to meet her. § 87(2)(b) gave the baby to § 87(2)(b) and they began walking towards their car. They noticed two police officers across the street. One of the officers, whom § 87(2)(b) identified as PO Daughtry, called to them and asked if it was their car. § 87(2)(b) answered that it was. PO Daughtry asked why they had left the keys in their car because they would have called the police when the car was stolen. Either § 87(2)(b) or § 87(2)(b) told the officers that it was their job to find the car if it got stolen. PO Daughtry said to § 87(2)(b) "I'm going to teach you something today." § 87(2)(b) asked what he was going to teach him. PO Daughtry responded that he would ticket § 87(2)(b) for having the car idle for more than three minutes. § 87(2)(b) argued that the car was not idling; the engine was off but the keys were in the ignition. § 87(2)(b) said that he raised his voice and spoke "strongly" to PO Daughtry, but he did not use any profanities. PO Daughtry asked § 87(2)(b) for his ID. § 87(2)(b) asked why he needed to see his ID. § 87(2)(b) asked at least three times why he needed his identification, but the officer would not tell him. § 87(2)(b) put his baby into the car seat and when he finished, PO Daughtry pushed him against the car, causing his chest to hit the car window. PO Daughtry handcuffed § 87(2)(b). § 87(2)(b) asked, "What am I under arrest for?" PO Daughtry did not answer him. PO Daughtry went into § 87(2)(b)'s pocket and pulled out his wallet. PO Daughtry went into the front seat of the car and pulled up the carpet up from the floor of the car and looked underneath. § 87(2)(b) asked PO Daughtry what he was looking for, but PO Daughtry did not answer. PO Daughtry located Mr. § 87(2)(b)'s driver's license. PO Daughtry returned § 87(2)(b)'s wallet to his pocket and removed the handcuffs. PO Daughtry's partner, who was identified through investigations as PO Christophe Kirchoff, remained on the sidewalk and did not say anything throughout the entire interaction. The officers walked away. § 87(2)(b) and his wife got into their car and began to drive to the precinct so they could file a complaint. § 87(2)(b) realized his

license and \$400 were missing from his wallet. § 87(2)(b) and § 87(2)(b) went back to the scene, but they could not find the money or the driver's license. They drove to the precinct and spoke to Sgt. Cox. Sgt. Cox interviewed PO Daughtry and afterwards, he told § 87(2)(b) that PO Daughtry had handcuffed him because he feared for his safety. Sgt. Cox noticed the summons in § 87(2)(b)'s wallet where money normally would be found. § 87(2)(b) did not realize that he had been given a summons until that moment.

Results of Investigation

Civilian Witness Statements:

§ 87(2)(b)

The CCRB spoke to § 87(2)(b) on March 7, 2007 via phone (encl.7). § 87(2)(b) stated that on August 28, 2006 at approximately 7:30 p.m., she went with her husband to pick up their daughter at the babysitter's house on § 87(2)(b) in Brooklyn. § 87(2)(b) went inside the babysitter's house while § 87(2)(b) waited outside in the parked car. When § 87(2)(b) exited the house with the baby, § 87(2)(b) got out of the car and walked across the street to meet his wife. § 87(2)(b) had left the keys in the ignition, but the car was turned off. § 87(2)(b) took the baby from his wife and as they were walking back to their car, they saw two police officers walking towards their car. They heard PO Daughtry ask, "Whose car is this?" As § 87(2)(b) and § 87(2)(b) approached, they told the officers that it was their car and PO Daughtry said to them, "You left the keys in your car, you guys are gonna be calling us after. If the car gets stolen, it's our job." § 87(2)(b) replied, "Well, isn't that your job? If it gets stolen, the only thing we can do is report it." § 87(2)(b) and PO Daughtry began to "exchange words", but § 87(2)(b) could not remember exactly what was said. PO Daughtry asked § 87(2)(b) for his ID. § 87(2)(b) asked PO Daughtry why he needed to see his ID. § 87(2)(b) put his daughter in the backseat of the car. PO Daughtry asked again to see § 87(2)(b)'s ID. § 87(2)(b) kept asking why the officer needed to see his ID if he hadn't done anything wrong. § 87(2)(b) said there was "adrenaline" and she credited her husband's behavior to their culture. She said that Caribbean people are "engaging" when they speak and that PO Daughtry may have construed this behavior as aggressive. A crowd had gathered. PO Daughtry said "OK sir, I'm putting you under arrest." PO Daughtry grabbed § 87(2)(b) by his shirt and pushed him against the rear side of the car with his back facing PO Daughtry. PO Daughtry handcuffed § 87(2)(b). PO Daughtry went into § 87(2)(b)'s pocket and took out his wallet (although later in the interview § 87(2)(b) stated that she did not actually see PO Daughtry take the wallet from § 87(2)(b)'s pocket, but assumed he had because she later saw him holding her husband's license). § 87(2)(b) was upset and started to talk to PO Christophe Kirchoff, who had been standing nearby but was not saying or doing anything. She asked PO Kirchoff, "He hasn't done anything, can we just stop this?" PO Daughtry was writing out a ticket and he asked PO Kirchoff a question about which box to check on the ticket. § 87(2)(b) said this was when she noticed PO Daughtry holding her husband's license. § 87(2)(b) asked PO Kirchoff again, "He didn't do anything wrong, can't he just write the ticket and let us go please?" She saw PO Daughtry fold the ticket, put it in her husband's wallet, and then replace the wallet into § 87(2)(b)'s pocket. PO Daughtry took the handcuffs off § 87(2)(b). PO Daughtry mentioned that he could have arrested § 87(2)(b) for disorderly conduct. The officers walked away and § 87(2)(b) said to her husband, "Hurry up and come get in the car, lets go." They got into their car and drove to the end of the block. § 87(2)(b) realized he could not find his driver's license and \$400 he had previously had in his wallet. § 87(2)(b) and § 87(2)(b) went to the precinct and made a complaint at this time. When the CCRB asked § 87(2)(b) if PO Daughtry had entered or searched the vehicle, § 87(2)(b) said PO Daughtry did not physically go into the car at any point, he only looked in.

Police Officer Statements

PO Kaz Daughtry, Memo Book

PO Kaz Daughtry's memo book indicated that he worked from 12:00 p.m. to 8:35 p.m. (encl.8a-8c). At 7:10 p.m., he observed a blue Honda civic with keys in the ignition, which was left unattended while idle

for more than three minutes. PO Daughtry asked the defendant for his driver's license, and the defendant began to yell and scream at him and caused a crowd to gather. Furthermore, the defendant stated to PO Daughtry that he didn't have to give him his license. The defendant became uncooperative so PO Daughtry rear handcuffed the defendant for his safety. PO Daughtry asked the defendant for his ID numerous times. The defendant refused a lawful order. PO Daughtry identified the defendant by a Florida driver's license: § 87(2)(b) D/O/B § 87(2)(b), of § 87(2)(b). PO Daughtry issued summons no. § 87(2)(b) for § 87(2)(b). PO Daughtry removed the handcuffs.

PO Kaz Daughtry, Summons No. § 87(2)(b)

PO Kaz Daughtry issued a summons to § 87(2)(b) DOB § 87(2)(b), at 1:10 p.m. on August 28, 2006 at § 87(2)(b) (encl.8d). The summons was for § 87(2)(b)

PO Kaz Daughtry, CCRB Statement

PO Kaz Daughtry is a § 87(2)(b) old black male. He is 6'0" and weighs 170 pounds. He has black hair and brown eyes. On August 28, 2007, PO Daughtry of the 73rd Precinct was working foot patrol with PO Kirchoff from 12:00 p.m. to 8:35 p.m.

PO Kaz Daughtry was interviewed at the CCRB on December 19, 2006 (encl.8e-8f). PO Daughtry stated that on August 28, 2006, at approximately 7:10p.m, he saw a vehicle parked at a fire hydrant with the keys in the ignition and turned on. PO Daughtry watched the car for approximately five minutes because he wanted to warn the owner not to leave his car unattended because it could get stolen and the area has a high incidence of car theft. § 87(2)(b) arrived and PO Daughtry asked him to produce ID so he could determine whether or not he was the rightful owner of the car. He did not intend to issue him a summons at that time. The car had Florida plates, so PO Daughtry wanted to see if § 87(2)(b) had a Florida driver's license. § 87(2)(b) said he did not have to produce his ID. PO Daughtry asked again for the ID, and § 87(2)(b) refused again. PO Daughtry asked once more and § 87(2)(b) started to yell at him. PO Daughtry told § 87(2)(b) to calm down or he would be issued a summons. § 87(2)(b) did not calm down and continued to yell. PO Daughtry handcuffed § 87(2)(b) intending to issue him a summons. PO Daughtry grabbed § 87(2)(b)'s arms, cuffed his wrist, and then cuffed his other wrist behind his back. § 87(2)(b) was compliant and did not resist. § 87(2)(b) who was also present, asked PO Daughtry not to arrest § 87(2)(b). PO Daughtry asked § 87(2)(b) if § 87(2)(b) had an ID. § 87(2)(b) reached into § 87(2)(b)'s pocket and retrieved his license from his wallet and handed it to PO Daughtry. PO Daughtry checked if § 87(2)(b) had any warrants, but there were none. § 87(2)(b) calmed down and PO Daughtry issued him a summons for § 87(2)(b). PO Daughtry uncuffed § 87(2)(b) and handed him the summons. PO Daughtry did not put the summons into § 87(2)(b)'s wallet. PO Daughtry did not push § 87(2)(b) and he did not enter § 87(2)(b)'s car at any point. He stated he had no reason to go into the car and he could not have lawfully searched the car. § 87(2)(b) left the area. PO Daughtry later spoke to either Sgt. Cox or Sgt. McMillan regarding this incident. The sergeant told him that § 87(2)(b) arrived at the precinct and created a commotion. Other officers told PO Daughtry that § 87(2)(b) had almost been arrested at the precinct because he was creating a scene. He was told § 87(2)(b) had to be asked to leave the precinct. PO Daughtry stated he did not issue a summons for the car idling because the summons is very expensive and he did not want to saddle a family man with such an expensive ticket.

PO Christophe Kirchoff, Memo Book

PO Christophe Kichoff's memo book reflects he was working on August 28, 2006 on foot from 12:00 p.m. to 8:35 p.m. with PO Daughtry (encl.9a-9c). It indicated at 7:10pm, he and PO Daughtry stopped a male in front of § 87(2)(b) because he had left his car with the keys in the ignition and standing. The male was identified as § 87(2)(b) and he refused to obey a lawful order for PO Daughtry.

PO Christophe Kirchoff, CCRB Statement

PO Christophe Kirchoff is a § 87(2)(b) old white male. He is 5'10" and weighs 180 pounds. He has brown hair and blue eyes. On August 28, 2006, PO Kirchoff of the 73rd Precinct was working from 12:00 p.m. to 8:35 p.m. on foot patrol with PO Daughtry.

PO Kirchoff was interviewed at the CCRB on January 18, 2007 (encl.9d-9e). He stated that he and PO Daughtry were walking up Herzl Street when they saw a car parked in a "No Standing Zone." PO Kirchoff could not remember if the car was idling, but the keys were in the ignition. The officers were going to issue a parking summons when § 87(2)(b) approached and began to yell at the officers. PO Kirchoff did not remember what he was yelling. PO Daughtry and § 87(2)(b) had a brief discussion about the parking violation, but § 87(2)(b) denied that he was illegally parked. § 87(2)(b) was not alone; his wife and child were with him, but § 87(2)(b) was not holding the child. PO Daughtry asked § 87(2)(b) for his identification because he was going to issue him a disorderly conduct summons. § 87(2)(b) refused and stated that he couldn't be issued a summons. PO Daughtry had to ask several times for his ID. § 87(2)(b) began waving his arms around and was yelling and screaming. He was within a foot or two of PO Daughtry, so PO Daughtry handcuffed § 87(2)(b) for safety concerns. PO Kirchoff also feared for his own safety. § 87(2)(b) leaned against the car after he was handcuffed and he was no longer a threat. PO Daughtry frisked § 87(2)(b) around his waist, and although PO Daughtry did not specify what he was frisking for, PO Kirchoff knew he was conducting a safety frisk to check for weapons. PO Daughtry found § 87(2)(b)'s wallet in his pocket and removed it from his pocket. He gave the wallet to § 87(2)(b) who then retrieved § 87(2)(b)'s license and handed it to PO Daughtry. PO Daughtry issued a § 87(2)(b) summons and then the officers left. PO Kirchoff did not know why § 87(2)(b) was not also issued a parking summons. PO Daughtry never entered or searched § 87(2)(b)'s car because there was no reason to do so.

CCRB Histories

PO Kaz Daughtry, who has a one-year tenure, has no substantiated allegations on his CCRB record (encl.3).

Civilian Conviction Histories

§ 87(2)(b), § 87(2)(c)

Conclusions and Recommendations

Officer Identification

In his initial complaint to the CCRB, § 87(2)(b) identified PO Daughtry by his badge number. The physical descriptions of the officers that were given by § 87(2)(b) matched the officers' pedigree information. § 87(2)(g)

Additionally, both PO Kaz Daughtry and PO Christophe Kirchoff acknowledged their interactions with § 87(2)(b)

Undisputed Facts

It is undisputed that § 87(2)(b) left his keys in the ignition of his car and that PO Daughtry and PO Kirchoff came upon the vehicle while it was unattended. When § 87(2)(b) and § 87(2)(b) returned to the car, PO Daughtry asked for § 87(2)(b)'s ID. PO Daughtry asked at least twice but § 87(2)(b) did not give him the ID. PO Daughtry handcuffed § 87(2)(b) obtained his license and wrote him a

summons for § 87(2)(b). PO Daughtry removed the handcuffs from § 87(2)(b). After leaving, § 87(2)(b) and § 87(2)(b) went to the 73rd Precinct to file a complaint.

Disputed Facts

It is in dispute if the engine to § 87(2)(b)'s car was turned on and if the car was parked in a legal parking spot. It is in dispute if PO Daughtry removed § 87(2)(b)'s wallet from his pocket. It is also in dispute if PO Daughtry went inside § 87(2)(b)'s car and searched underneath the driver's side rug.

Assessment of the Evidence

PO Daughtry and PO Kirchoff came upon a vehicle that had been left unattended with keys in the ignition.

§ 87(2)(g)
§ 87(2)(b) both officers recognized that the key was left in the ignition. Both § 87(2)(b) and § 87(2)(b) recognized this fact as well. § 87(2)(b) approached the vehicle and identified himself as the owner. PO Daughtry requested identification from § 87(2)(b) for various reasons. § 87(2)(b) was claiming to be the owner of the car and PO Daughtry needed to verify § 87(2)(b)'s ownership before letting him drive away in it, therefore preventing possible theft. § 87(2)(g)

While refusing to show his ID, § 87(2)(b) said he "raised his voice and spoke strongly" to PO Daughtry. § 87(2)(b) said that PO Daughtry might have construed her husband's behavior as "aggressive." She also said a crowd gathered. § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) and PO Kirchoff all corroborate the fact that after PO Daughtry handcuffed § 87(2)(b) he removed § 87(2)(b)'s wallet from his pocket. § 87(2)(g)

§ 87(2)(b) The search was conducted prior to possible arrest.

§ 87(2)(g)
§ 87(2)(b) was upset about his interaction with PO Daughtry, and he exaggerated about what had actually happened. During her interview, § 87(2)(b) was directly asked if their vehicle was entered or searched. She responded that PO Daughtry did not physically go into the car at any point during the incident, he had only looked in. Both officers stated there was no reason to search the car and the car was never entered.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: PO Kaz Daughtry stopped § 87(2)(b)

According to New York City Vehicle Traffic Law Article 33, Section 1210, “No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the vehicle, and effectively setting the brake thereon...the provision for removing the key from the vehicle shall not require the removal of keys hidden from sight about the vehicle for convenience or emergency” (encl.2a). § 87(2)(g)

Allegation B: PO Kaz Daughtry used physical force against § 87(2)(b)

According to the NYPD Scale of Escalating Force (encl.1), when a civilian is being verbally resistant and failing to comply with directions, an officer can use firm grips that cause no pain, but are meant to guide an individual. § 87(2)(g)

Allegation C: PO Kaz Daughtry searched § 87(2)(b)

§ 87(2)(b) was persistent in his refusal to show his ID and PO Daughtry needed to obtain it in order to issue a summons. § 87(2)(g)

Allegation D: PO Kaz Daughtry searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) corroborated the officers’ statements that the vehicle was never searched. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: